



General Assembly

**Substitute Bill No. 5069**

February Session, 2014



**AN ACT CONCERNING LOW WAGE EMPLOYERS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) As used in this section  
2 and section 2 of this act:

3 (1) "Person" has the same meaning as provided in section 42-133e of  
4 the general statutes, except "person" shall not include the state or any  
5 department, agency or political subdivision thereof;

6 (2) "Franchise" has the same meaning as provided in section 42-133e  
7 of the general statutes;

8 (3) "Franchisor" has the same meaning as provided in section 42-  
9 133e of the general statutes;

10 (4) "Franchisee" has the same meaning as provided in section 42-  
11 133e of the general statutes;

12 (5) "Employee" means any individual employed or permitted to  
13 work by an employer, but does not include any individual employed  
14 in any park, camp or resort which is open not more than six months of  
15 the year;

16 (6) "Covered employer" means:

17 (A) Any person, firm, business, educational institution, corporation,  
18 limited liability company or other entity that directly employs five  
19 hundred or more employees in the state in any one quarter in the  
20 previous year, which shall be determined on January first, annually.  
21 Such determination shall be made based upon the wage information  
22 submitted to the Labor Commissioner pursuant to subsection (j) of  
23 section 31-225a of the general statutes; or

24 (B) Any franchisor whose franchisees, collectively, employ at least  
25 five hundred or more employees in the state in any one quarter in the  
26 previous year, which shall be determined on January fifteenth,  
27 annually. Such determination shall be made based upon the  
28 information submitted to the Labor Commissioner pursuant to section  
29 2 of this act; and

30 (7) "Covered employer" does not include any private nonprofit  
31 entity, the state or any instrumentality or political subdivision thereof.

32 (b) Any covered employer that employs, or whose franchisee  
33 employs, any employee (1) who was listed on such covered employer's  
34 or such franchisee's payroll for at least ninety calendar days prior to  
35 the completion of the most recent calendar quarter, and (2) whose  
36 wages paid by such covered employer, or such covered employer's  
37 franchisee, during such quarter were less than or equal to one hundred  
38 thirty per cent of the minimum fair wage, as described in section 31-58  
39 of the general statutes, shall pay a fee to the Labor Commissioner for  
40 each such employee. Such fee shall be assessed quarterly and shall be  
41 equal to one dollar for each hour such employee worked for such  
42 covered employer during the previous quarter. Such fee shall not  
43 accrue until January 1, 2015.

44 (c) The commissioner shall collect such fees from each covered  
45 employer not later than sixty days after the completion of the quarter  
46 in which such fees were assessed. The commissioner shall deposit such  
47 revenue derived therefrom with the State Treasurer who shall deposit  
48 such revenue in the General Fund.

49 (d) On or before October 1, 2014, the Labor Commissioner shall  
50 adopt guidelines for the determination of and collection of fees  
51 pursuant to subsections (b) and (c) of this section.

52 (e) Any covered employer aggrieved by the Labor Commissioner's  
53 determination of fees pursuant to subsection (b) of this section may file  
54 a complaint with the commissioner. Upon receipt of the complaint, the  
55 commissioner shall investigate such complaint and may hold a  
56 hearing. After the hearing, the commissioner shall send the covered  
57 employer a written copy of his or her decision. Any covered employer  
58 who prevails in such hearing shall be awarded reasonable attorney's  
59 fees and costs. Any covered employer aggrieved by the decision of the  
60 commissioner may appeal the decision to the Superior Court in  
61 accordance with the provisions of chapter 54 of the general statutes.

62 (f) A covered employer shall not designate, or cause such covered  
63 employee's franchisee to designate, an employee as an independent  
64 contractor or temporary employee, reduce an employee's hours of  
65 work or terminate an employee for the purpose of avoiding such  
66 covered employer's obligations under this section.

67 (g) The Labor Commissioner may request the Attorney General to  
68 investigate any violation of subsection (b) or (f) of this section. Any  
69 information obtained pursuant to such investigation shall be exempt  
70 from disclosure under section 1-210 of the general statutes. If the  
71 Attorney General finds that a covered employer has violated or is  
72 violating any provision of subsection (b) or (f) of this section, the  
73 Attorney General may bring a civil action in the superior court for the  
74 judicial district of Hartford in the name of the state against such  
75 covered employer.

76 (h) If any provision of this section or its application to any person or  
77 circumstance is held invalid by a court of competent jurisdiction, the  
78 invalidity does not affect other provisions or applications of this  
79 section that can be given effect without the invalid provision or  
80 application, and to this end the provisions of this section are severable.

81 (i) Nothing in this section shall be construed to preempt or override  
 82 the terms of any collective bargaining agreement effective prior to  
 83 January 1, 2015.

84 Sec. 2. (NEW) (*Effective from passage*) Not later than January 1, 2015,  
 85 and annually thereafter, each employer that submits wage information  
 86 to the Labor Commissioner pursuant to subsection (j) of section 31-  
 87 225a of the general statutes shall indicate to the commissioner, on a  
 88 form and in a manner prescribed by the commissioner, whether such  
 89 employer is a franchisee, and if so, such employer shall provide to the  
 90 commissioner the name and address of the franchisor that granted the  
 91 franchise to such employer, and any other information as the  
 92 commissioner may prescribe.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section

**LAB**      *Joint Favorable Subst.*